**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION.**

WRIT PETITION NO.4004 OF 2006

Dattatraya Nagnath Divate and ors. .. Petitioners

Vs

Vyankatesh Vitthal Sheral and anr .. Respondents

Mr A.S.Kulkarni, for the petitioners

**CORAM : D.B.BHOSALE,J.**
**DATE : 30.08.2006**

**PC:**

1. Heard the learned counsel for the petitioners.

2. The petitioners have impugned the order dated 10.10.2005 passed by the trial Court on the application at Exhibit-26 filed by the respondent-plaintiff seeking permission to lead secondary evidence relating to the agreement dated 3.5.1966. Mr. Kulkarni, learned counsel for the petitioners, challenged this order mainly on the ground that the agreement was not registered and hence it is not admissible in evidence and, therefore, the learned Judge ought not to have granted permission to lead secondary evidence relating to the said agreement. I perused the order. By the impugned order the learned Judge has simply allowed the plaintiff to lead secondary evidence relating to the said agreement for the reasons recorded in paragraphs 5 to 7 of the impugned order. It is always open for the petitioners to raise an objection as to its

admissibility as and when it would be produced on record. If such an objection is raised the question of its admissibility could be considered at appropriate stage. The trial Court has rightly allowed the application and the reasons recorded for allowing to lead secondary evidence are just and proper and they do not warrant interference in writ jurisdiction under Article 227 of the Constitution of India. The writ petition is, accordingly, disposed of.

(D.B.BHOSALE,J.)